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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,963	04/23/2001	Sangki Hong	CS99-210	4495
28112	7590	08/30/2005	EXAMINER	
GEORGE O. SAILE & ASSOCIATES 28 DAVIS AVENUE POUGHKEEPSIE, NY 12603			MALDONADO, JULIO J	
			ART UNIT	PAPER NUMBER
			2823	
DATE MAILED: 08/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/839,963

Applicant(s)

HONG ET AL.

Examiner

Julio J. Maldonado

Art Unit

2823

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3, 6, 9-12, 15 and 18-21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


George Fourson
Primary Examiner

Continuation of 3. NOTE: The amendment filed 08/17/2005 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because the proposed amendment raises new issues that would require further consideration and/or search. The amended independent claims now add the limitation "...for etching through said second metal layer...", where there was no mention within the claims of this limitation. The amendment raises new issues into the prosecution of the instant application and would thus provide grounds for a new search and further consideration..

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 08/17/1005 have been fully considered but they are not persuasive. Applicants argue, "...the cited art teaches a method form interconnects. However, Applicant does not believe that the cited art teaches the method of Applicant's claim invention. In particular, Applicant teaches forming self-aligned, anti-via interconnects using a method wherein a tantalum-containing etch stop layer is used as an etching stop for the second metal layer etch. Applicant wishes to make clear that etching stop specifically used to stop the etching of the second metal layer, that protect the first metal layer from being etched at end of the second metal layer etch. This feature is distinct from that taught by Ye et al. wherein the etch stopping layer is used to stop an oxide layer etch from etching an underlying metal layer...". Ye et al. was cited to prove that tantalum containing layers could be used as etch stopping layers. Further support can be found in Naik et al. to U.S. 6,391,771 B1 (column 6, line 57 - column 7, line 14). Therefore, and as established in the Office Action mailed on 06/14/2005, it would have been within the scope of one of ordinary skill in the art to combine the teachings of Rhodes et al. and Ye et al. to using tantalum material in the etch stop layer of Rhodes et al. according to the teachings of Ye et al. because one of ordinary skill in the art at the time the invention was made would have been motivated to look to alternative suitable methods of performing the disclosed etch stop forming step of Rhodes et al. and art recognized suitability for an intended purpose has been recognized to be motivation to combine. MPEP 2144.07..